

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARANZ LAMONT DAVIS,

Petitioner,

v.

RAYMOND BOOKER,

Respondent.

CASE NO. 04-CV-40087-FL
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

**ORDER DENYING MOTION FOR RECONSIDERATION AND DENYING
APPLICATION TO PROCEED IN FORMA PAUPERIS**

On October 18, 2006, this Court issued an order denying Petitioner's petition for a writ of habeas corpus. *Davis v. Booker*, No.04-40087, Order Denying Pet. for Habeas Corpus (Oct. 18, 2006). Now before the Court are Petitioner's November 13, 2006, "Motion for Enlargement of Time to Request a Rehearing," Petitioner's November 13, 2006, "Motion for Rehearing," Petitioner's November 20, 2006 "Motion to Extend Time to File Motion for Leave to Appeal and Certificate of Appealability," and Petitioner's November 20, 2006 "Application to Proceed In Forma Pauperis."

First, addressing the motions related to rehearing, in the interests of justice, Petitioner's motion for an enlargement of time will be granted. Turning to examine the merits of Petitioner's motion for reconsideration, that examination reveals that Plaintiff has neither demonstrated "a palpable defect by which the court and the parties have been misled," nor shown "that correcting the defect will result in a different disposition of the case." E.D. Mich. L.R. 7.1(g)(3). Because a

showing of both requirements are necessary for a successful motion for reconsideration, Petitioner's motion for reconsideration will be denied.

Examining Petitioner's "Motion to Extend Time to File for Leave to Appeal and for a Certificate of Appealability," and Petitioner's "Application to Proceed *in forma pauperis*," this Court's October 18, 2006 order directly addressed these issues:

After conducting the required inquiry, and for the reasons stated . . . above, the Court finds that Petitioner has not made a substantial showing of the denial of a constitutional right with respect to any of the claims presented. *See* 28 U.S.C. § 2253(c)(2). Petitioner should not receive any encouragement to proceed further. *Slack*, 529 U.S. at 484. Because the Court can discern no good faith basis for an appeal, *see Miller-El*, 537 U.S. at 338, any appeal would be frivolous. **The Court will therefore deny a certificate of appealability.** *See Long v. Stovall*, [450 F. Supp. 2d 746, 754-55] (E.D. Mich. September 20, 2006). **The Court will also deny Petitioner leave to appeal *in forma pauperis*,** because the appeal would be frivolous. *Hence v. Smith*, 49 F. Supp. 2d 547, 549 (E.D. Mich. 1999).

Davis v. Booker, No.04-40087, Order Denying Pet. for Habeas Corpus (Oct. 18, 2006).

The Court finds no reason to reconsider its prior decision. An appeal from the denial of Petitioner's petition for a writ of habeas corpus would be frivolous and, therefore, cannot be taken in good faith. Consistent with this Court's previous order, Petitioner's application to proceed *in forma pauperis* will be denied. Furthermore, because the Court has already found that a certificate of appealability would not be warranted, the Court can find no rationale to grant Petitioner's motion to extend time to file a certificate of appealability. Consequently, that motion will also be denied.

ACCORDINGLY, IT IS HEREBY ORDERED that Petitioner's "Motion for Enlargement of Time to Request a Rehearing," [docket entry 49] is **GRANTED**;

IT IS FURTHER ORDERED that Petitioner's "Motion for Rehearing," [docket entry

50], “Motion to Extend Time to File Motion for Leave to Appeal and Certificate of Appealability,” [docket entry 54], and “Application to Proceed In Forma Pauperis” [docket entry 53] are **DENIED**.

SO ORDERED.

Dated: November 30, 2006

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on November 30, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Janet Van Cleve, and I
hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Maranz Davis.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
(810) 341-7845